

the size of the holes. Thus, the Rimback patent fails to anticipate, under 35 U.S.C. 102(b), any of claims 8, 11 and 12.

Claims 3, 6 and 7 were rejected under 35 U.S.C. 103(a) based on Ritchey, with the addition of Schneidmiller U.S. Patent No. 4,551,941 in the rejection of claim 3, and with the addition of Rimback in the rejection of claim 6. These claims are all dependent on claim 1, which distinguishes over Ritchey in the manner discussed above. Schneidmiller is relied upon to show the use of opaque material, but this does not overcome the other shortcomings of Ritchey pointed out above, namely, failure to show the hole size required by applicant's claims. Thus, even a combination of Ritchey and Schneidmiller does not yield the invention defined by applicant's claims 3, 6 and 7.

Thus, reconsideration of the rejection of claims 3, 6 and 7 under 103(a) based on Ritchey alone or in combination with Schneidmiller or Rimback is respectfully requested.

Claims 9-10 and 13-20 were rejected under 35 U.S.C. 103(a) based on Rimback, with the addition of Schneidmiller in the rejection of claim 10. Claims 9, 10 and 13 are dependent on claim 8, which distinguishes over Rimback in the manner discussed above. Schneidmiller is relied upon to show the use of opaque material, but this does not overcome the other shortcomings of Rimback pointed out above, namely, failure to show the hole size required by applicant's claims. Thus, even a combination of Ritchey and Schneidmiller does not yield the invention defined by applicant's claims 9, 10 and 13.

Claim 14 is a method claim directed to the use of such a structure to trap carpenter bees "without the use of bait or insecticide," and has been amended to further recite "said housing containing no bait." Claims 15-20 are all dependent on claim 14. There is no teaching whatever in the Rimback patent that his structure might be effectively used as a trap without the use of bait, nor that it might be used to trap carpenter bees. Moreover, claim 14 has the same hole-size requirement discussed above in connection with claims 1 and 8. Thus, no matter whether Rimback is considered alone or in combination with Ritchey and/or Schneidmiller, there will be no hole of the size required by the claims, nor any suggestion that the structure be used as a trap for carpenter bees without the use of bait.

The cited prior art never mentions carpenter bees, and never suggests that carpenter bees, or other insects for that matter, can be trapped by a simple hollow container having a hole of about the same size as holes normally made by carpenter bees. Applicant's invention requires no bait and no insecticide, and thus is environmentally attractive, and vastly superior to the references' approach from an environmental standpoint. And yet, applicant's trap is surprisingly effective in trapping carpenter bees. For example, see the attached test results

conducted with four traps that were about 2" deep by 8" high by 6" wide, with entry holes of 5/16", 3/8", 7/16" and 1/2", respectively.

In addition to the distinctions found in the independent claims 1 and 14, dependent claims 3 and 16 further distinguish over Ritchey and Rimback by requiring that the wall around the hole have a "light color" so that the hole "appears dark" from outside the housing. This feature assists in attracting carpenter bees for trapping, and is not taught anywhere in the cited references.

Thus, reconsideration of the rejection of claims 9-10 and 13-20 under 103(a) based on Rimback alone or in combination with Schneidmiller is respectfully requested.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. Attached hereto is a clean copy of the pending claims after entry of the present amendment captioned "**Pending Claims After Entry of Amendment and Reply to Office Action Mailed August 6, 2002.**"

It is believed that no fee is presently due; however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Jenkins & Gilchrist, P.C. Deposit Account No. 10-0447, Order No. 52372-00002.

Respectfully submitted,

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**PENDING CLAIMS AFTER ENTRY OF AMENDMENT AND
REPLY TO OFFICE ACTION MAILED APRIL 4, 2002**

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1. A carpenter bee trap comprising a housing having a hollow interior and at least one solid wall having a hole formed therein to permit carpenter bees to enter the hollow interior of the housing, said hole having about the same size as holes normally made by carpenter bees so that the hole tends to attract such bees.

2. The carpenter bee trap of claim 1 in which the interior surface of said solid wall forming the interior edge of said hole is substantially flat.

3. (Amended) The carpenter bee trap of claim 1 in which said housing has only a single hole, and the exterior surface of said solid wall around said hole has a light color, and the walls of said housing are opaque so that said hole appears dark from outside the housing.

4. The carpenter bee trap of claim 1 in which at least one of the walls of said housing can be pivoted away from adjacent walls to permit the hollow interior of the housing to be opened for the removal of trapped bees.

5. The carpenter bee trap of claim 1 in which the interior surfaces of said housing are smooth.

6. The carpenter bee trap of claim 1 which is made of a single piece of molded plastic with molded hinges connecting selected pairs of adjacent walls, and including integral latching means for releasably latching selected pairs of adjacent walls.

7. The carpenter bee trap of claim 1 in which said hole has a diameter within the range of from about 5/16 inch to 1/2 inch.

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8. A carpenter bee trap comprising a housing made of a single piece of molded plastic with molded hinges connecting selected pairs of adjacent walls, and including integral latching means for releasably latching selected pairs of adjacent walls, said having a hollow interior and at least one solid wall having a hole formed therein to permit carpenter bees to

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enter the hollow interior of the housing, said hole having about the same size as holes normally made by carpenter bees so that the hole tends to attract such bees.

9. The carpenter bee trap of claim 8 in which the interior surface of said solid wall forming the interior edge of said hole is substantially flat.

10. The carpenter bee trap of claim 8 in which the exterior surface of said solid wall around said hole has a light color, and the walls of said housing are opaque so that said hole appears dark from outside the housing.

11. The carpenter bee trap of claim 8 in which at least one of the walls of said housing can be pivoted away from adjacent walls to permit the hollow interior of the housing to be opened for the removal of trapped bees.

12. The carpenter bee trap of claim 8 in which the interior surfaces of said housing are smooth.

13. The carpenter bee trap of claim 8 in which said hole has a diameter within the range of from about 5/16 inch to 1/2 inch.

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14. (Amended) A method of trapping carpenter bees without the use of bait or insecticide comprising providing a housing having a hollow interior and at least one solid wall having an exposed hole formed therein to permit carpenter bees to enter the hollow interior of the housing, said hole having about the same size as holes normally made by carpenter bees so that the hole tends to attract such bees, and periodically removing trapped bees from said hollow interior of said housing.

15. (Amended) The method of trapping carpenter bees as set forth in claim 14 in which the interior surface of said solid wall forming the interior edge of said hole is substantially flat.

16. (Amended) The method of trapping carpenter bees as set forth in claim 14 in which the exterior surface of said solid wall around said hole has a light color, and the walls of said housing are opaque so that said hole appears dark from outside the housing.

17. (Amended) The method of trapping carpenter bees as set forth in claim 14 in which at least one of the walls of said housing can be pivoted away from adjacent walls to permit the hollow interior of the housing to be opened for the removal of trapped bees.

18. (Amended) The method of trapping carpenter bees as set forth in claim 14 in which the interior surfaces of said housing are smooth.

19. (Amended) The method of trapping carpenter bees as set forth in claim 14 which is made of a single piece of molded plastic with molded hinges connecting selected pairs of adjacent walls, and including integral latching means for releasably latching selected pairs of adjacent walls.

20. (Amended) The method of trapping carpenter bees as set forth in claim 14 in which said hole has a diameter within the range of from about 5/16 inch to 1/2 inch.
